

PLANNING COMMISSION REPORT



MEETING DATE: June 28, 2006

ITEM NO. _____ GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT **Novak Residence – 2-AB-2006**

REQUEST Request to consider the following:

1. Abandon 18 feet of the 33 foot Government Land Office (GLO) easement along the northern property boundary, thereby retaining 15 feet of the GLO easement along the East Cavedale Drive alignment for a distance of 310 feet.
2. Abandon 13 feet of the 33 foot Government Land Office (GLO) easement along the eastern property boundary, thereby retaining 20 feet of the GLO easement along North 77th Street for a distance of 264 feet.

Related Policies, References:

General Plan, Master Circulation Plan, Trails Plan

OWNER/APPLICANT CONTACT Constance & Paul Novak
480-473-9648

LOCATION 26780 N 77th Street

BACKGROUND

Background.

The subject GLO easements were dedicated in 1959 as a part of a plat of the parcels in this area. The right-of-way along North 77th Street was dedicated in 2003 as stipulated in the approval of the building permit for the residence on the property. The GLO Easements on the lot to the west of the applicant's property were abandoned, therefore there is no right-of-way or easement on the south half of the Cavedale Drive alignment to the west. The Planning Commission heard case 9-AB-2005 for the property to the west on September 28, 2005, and October 26, 2005. There were several members of the public who spoke regarding this matter; with the primary concern being whether or not the City should be abandoning GLO easements at all, and if so how the process should be handled. Planning Commission recommended approval, 5-0.

General Land Office Patent Easements (general information).

- Within the City of Scottsdale there are General Land Office (GLO) lots or parcels of various sizes created by the Federal Small Tract Act. This act was passed in 1938 and repealed in 1976.
- Most GLO lots were patented with 33 feet (or sometimes 50 feet) roadway and public utility easements typically "as near as practicable to the exterior boundaries".



- The city has viewed these patent roadway and utility easements as assured access at least until a local circulation plan is established.
- As GLO lots come in for development (i.e.; lot splits, subdivisions or requesting building permits) staff requires city right-of-way dedications per our circulation plans. The city's transportation plan establishes a street system to replace the grid pattern created by the GLO easements.
- Any patent easements in excess of the current requirements to the circulation plans (including trails), roadway standards, and not required to insure access to any other lot, may be requested to be abandoned.
- In 1981, City Ordinance 1386 was adopted delegating the authority for the release of GLO easements to the Engineering Services Director.
- On March 2, 1999, the City Council repealed Ordinance 1386 and adopted Ordinance 3219 which requires the abandonment of the GLO patent roadway easements to go through the same public hearing process currently used for all right-of-ways, alleys, and roadway easements. The City Attorney's office has concluded that this process for consideration of GLO roadway abandonment satisfies legal requirements.
- On August 12, 2005, Arizona Revised Statute section 9-500.4 became effective. This section gives the local municipality the right to abandon GLO patent easements, and concurs with the city's position on abandonment of GLO patent easements.

The subject GLO roadway easements were reserved on the original patent deed to assure legal access.

Zoning.

The site is zoned R1-70 ESL FO. The R1-70 ESL FO zoning district allows for single-family residential neighborhood uses, with a minimum lot size of 70,000 square feet, subject to additional environmental and foothills character restrictions and special standards.

Context.

This parcel is located two parcels northeast of the intersection of Jomax and Miller Roads.

Adjacent Zoning:

- North: R1-70 ESL FO residential neighborhoods
- South: R1-70 ESL FO residential neighborhoods
- East: R1-70 ESL FO residential neighborhoods
- West: R1-70 ESL FO residential neighborhoods

This district allows residential uses as the primary use along with other limited community and recreational uses. The R1-70 ESL FO requires a minimum 70,000 square foot for each parcel. The ESL zoning overlay includes special open space requirements, development standards and protection for designated natural features. The FO overlay places additional development standards on the property, particularly regarding accessory structures and walls.

APPLICANT'S
PROPOSAL

Goal/Purpose of Request.

- Abandon 13 feet of Government Land Office (GLO) easement along the eastern property line, adjacent to Miller Road;
- The original request by the applicant was to abandon 33 feet of

Government Land Office (GLO) easement along the northern property line, adjacent to another R1-70 zoned parcel of land. Subsequently, the applicant agreed to modify this to request the abandonment of the southerly 18 feet of this easement.

- The applicant is requesting the abandonment for two reasons.
 1. The northerly GLO easement creates a problem for the use of their property because in the Foothills Overlay zone, setbacks are measured from the GLO easement line, and not the property line; the existing barn and dressage area is located in the setback area (the barn is located 30 feet from the property line and therefore is 3 feet within the GLO easement).
 2. The eastern GLO easement is located principally in the already dedicated right-of-way for North 77th Street, except for 13 feet, and is no longer needed to provide access to the subject property or adjacent properties.

Key Issues.

CITY IMPACT:

The principal reason the City generally pays close attention to abandonment requests of GLO and other City easements is to make sure the proposed abandonment will not in any way be detrimental to the City's long term plans for transportation access, trails or open spaces and that access is not being denied to adjacent property. Staff has analyzed this request in that fashion, and finds that the City goals are still being met with the proposed abandonment.

- Maintains consistency with city street standards as approved by the City's Transportation Department; regarding the 13 foot abandonment to the east. The City already has 20 feet of dedicated right-of-way in this location, and the Transportation Department has indicated that the street only needs 20 feet from the centerline. As such, the additional 13 feet is not necessary. This alignment is not shown as a trail corridor on the Trails Plan.
- The northerly GLO easement is not necessary for either transportation access or and is not shown as a trail corridor on the Trails Plan.

NEIGHBORHOOD IMPACT:

- The proposed abandonment would not create a significant impact to the neighbors with this application. The Trails Plan is not altered in any way by this proposal. The nearest planned trail is along Miller Road, which is 300 feet to the west. Access is maintained consistent with the Transportation Department's master circulation plan. No existing or proposed water lines would be affected by this proposal.
- A 15 foot portion of the GLO easement will remain in place along the northern property boundary for the purpose of public use.

PROPERTY OWNER IMPACT:

- The property owner has been notified by the City that the existing barn and dressage area are non-conforming since they were built within in a setback area; which, in the Foothills Overlay zoning district, is measured from the GLO easement line, and not the property line.
- Approval of this request would allow the property owner to maintain their existing barn and dressage area as a permitted location.

IMPACT ANALYSIS

Departmental Responses.

City Department/Division participants concur with this abandonment request. See Department Issues Checklist (Attachment #1).

Open space, scenic corridors.

There are no open space or scenic corridor issues associated with this case. The parcel is located along North 77th Street, and is adjacent to other residential parcels on three sides.

Policy Implications.

Generally, the policy of the City of Scottsdale is to maintain rights-of-way and similar easements when they are necessary for existing, planned or anticipated public uses such as transportation access, trails and future open space. The abandonment of the subject easements will not affect the ability of the City to achieve those goals for the reasons listed above.

Community Involvement.

The applicant completed the City of Scottsdale required Citizen Participation notification to property owners within 750 feet of the proposed abandonment. There has not been any verbal, electronic, or written material submitted, either in favor or against the subject request.

STAFF

RECOMMENDATION

Recommended Approach:

Staff recommends approval

RESPONSIBLE

Planning and Development Services Department

DEPT(S)

STAFF CONTACT(S)

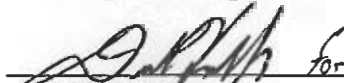
Greg Williams

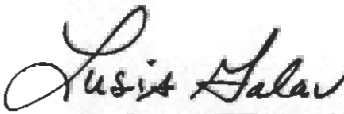
Senior Planner

480-312-4205

E-mail: gwilliams@ScottsdaleAZ.gov

APPROVED BY


Greg Williams
Report Author


Lusia Galav, AICP
Current Planning Director

ATTACHMENTS

1. Departmental Checklist
2. Context Aerial
3. Detail Aerial
4. Zoning Map
5. Right of Ways and Easements
6. Area Trails Plan
7. City Notification Map

CASE 2-AB-2006

Department Issues Checklist

Transportation

☒ **Support**

Support abandonment of GLO's along north and east side of site. This is consistent with request to abandon quarter cul-de-sac and GLO's on adjacent property to west (Case 9-AB-2005).

Trails

☒ **Support**

The proposal does not affect or modify the adopted Trails Plan in this area. Trails planned for this area are located along 76th and 78th Street.

Public Utilities

☒ **Support**

All utility companies have sent letters of support for this abandonment request with no reservations.

Emergency/Municipal Services

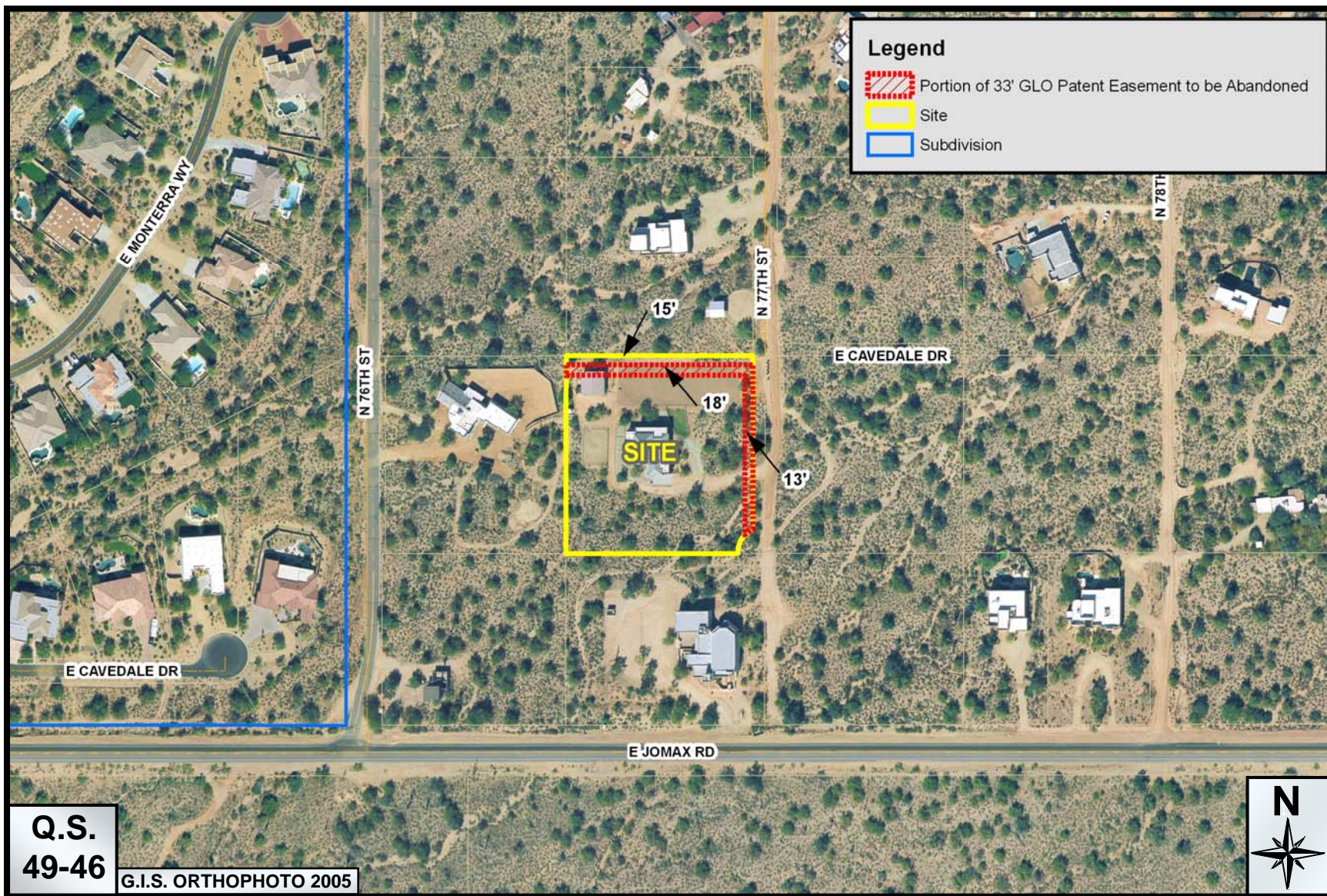
☒ **Support**

This request does not impact the ability to serve these properties or adjacent properties.

Water/Sewer Services

☒ **Support**

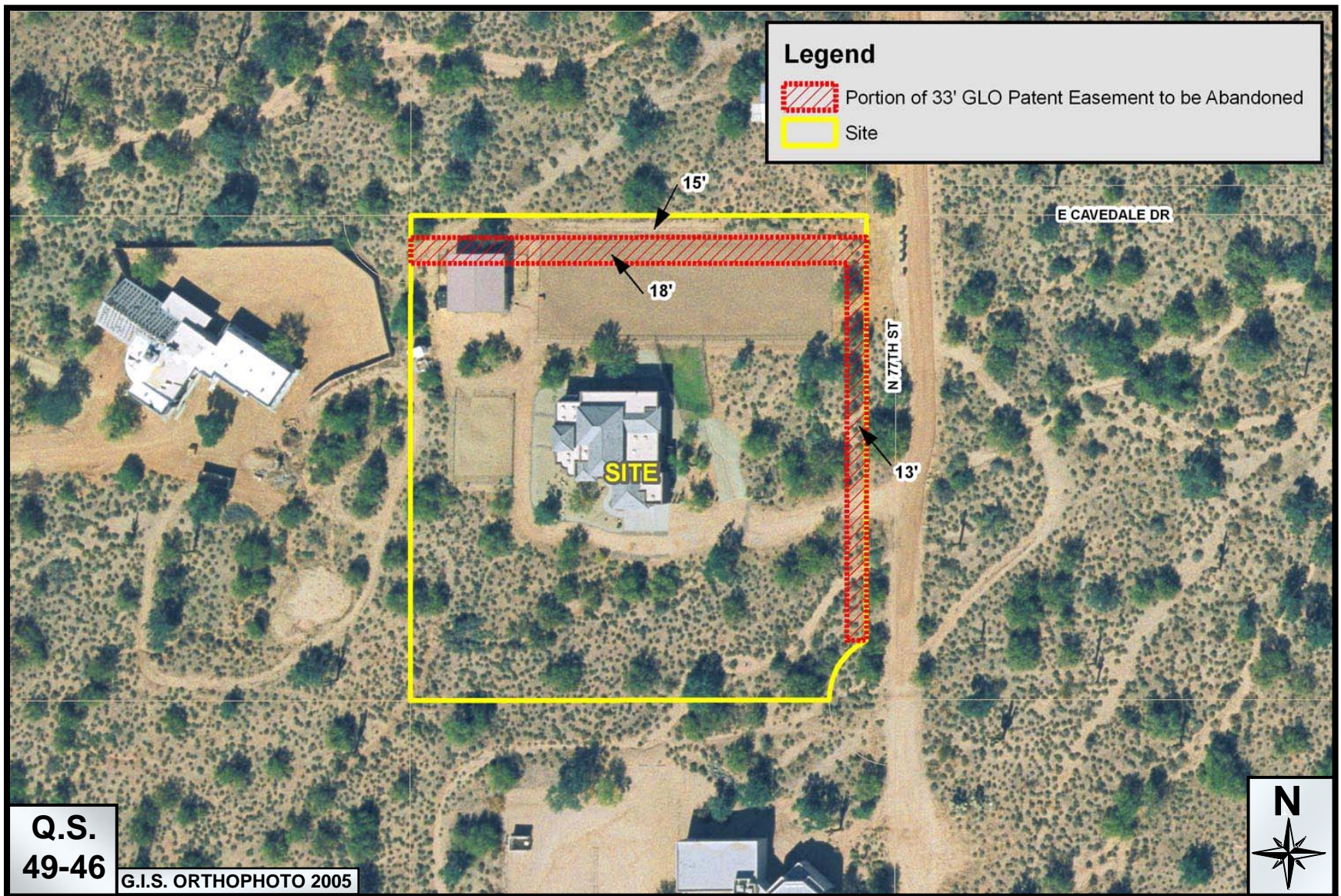
This request does not impact the ability to serve any properties in the surrounding areas.



Novak Residence

2-AB-2006

ATTACHMENT #2



Novak Residence

2-AB-2006

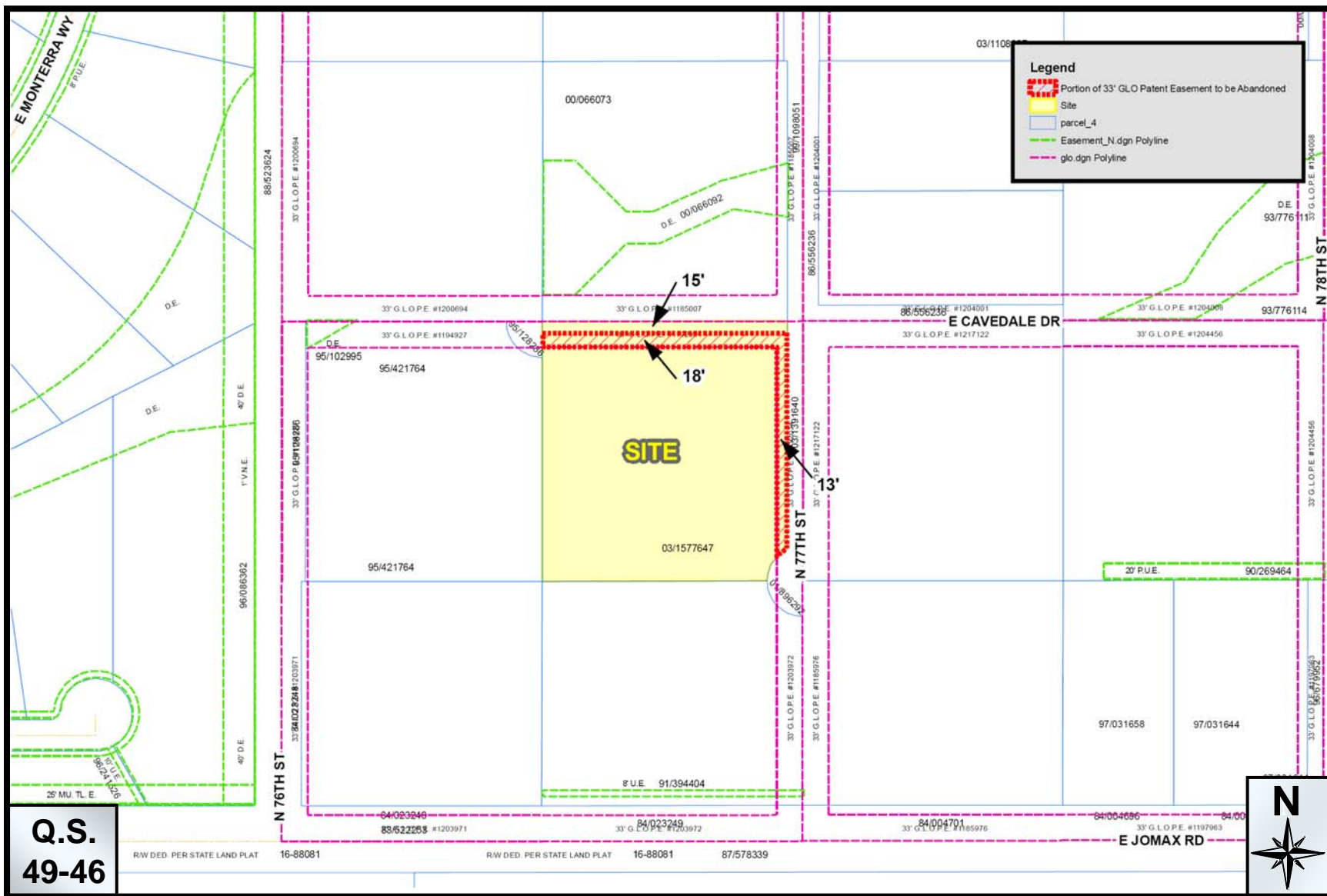
ATTACHMENT #3



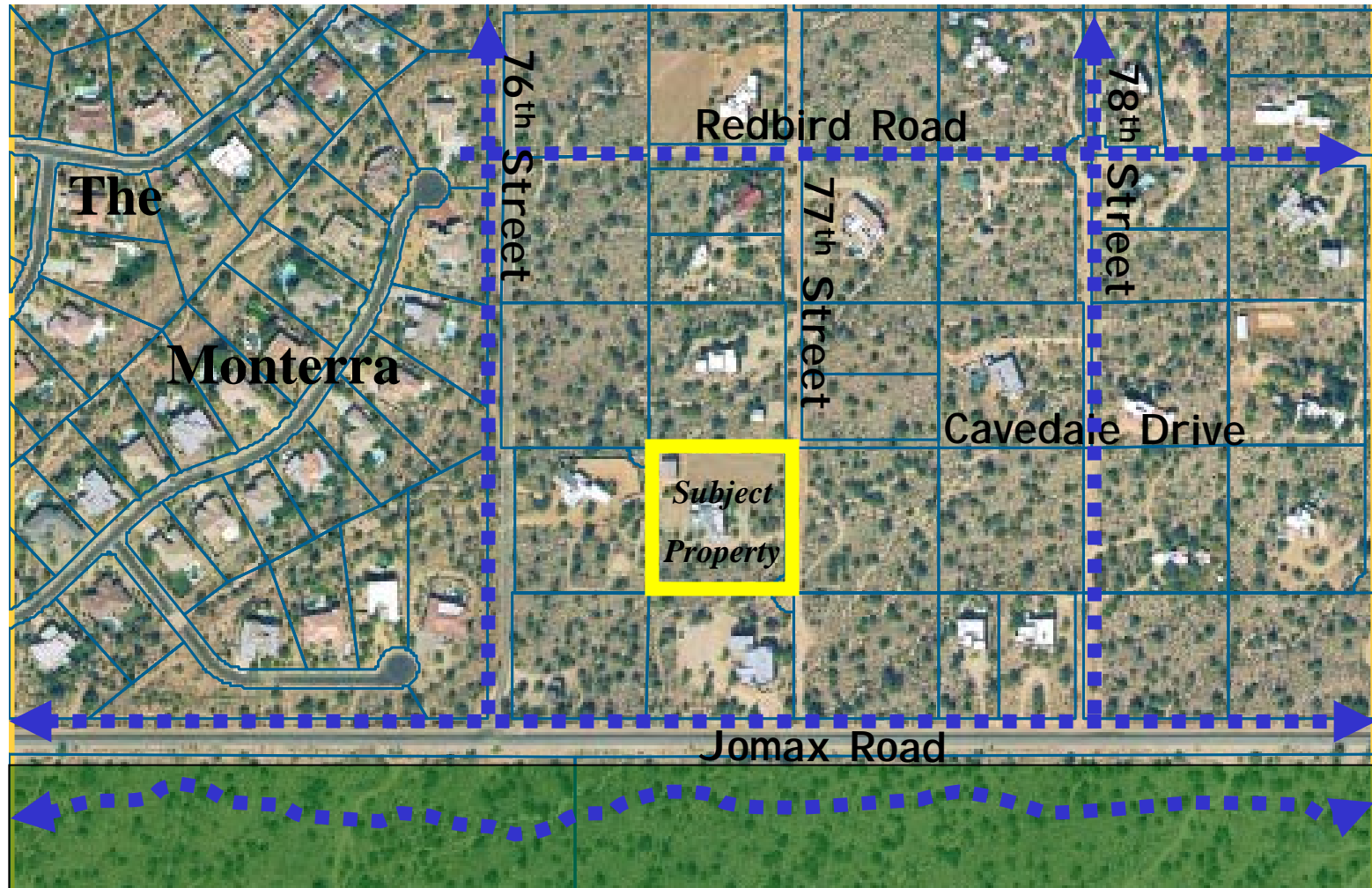
2-AB-2006




ATTACHMENT #4

I



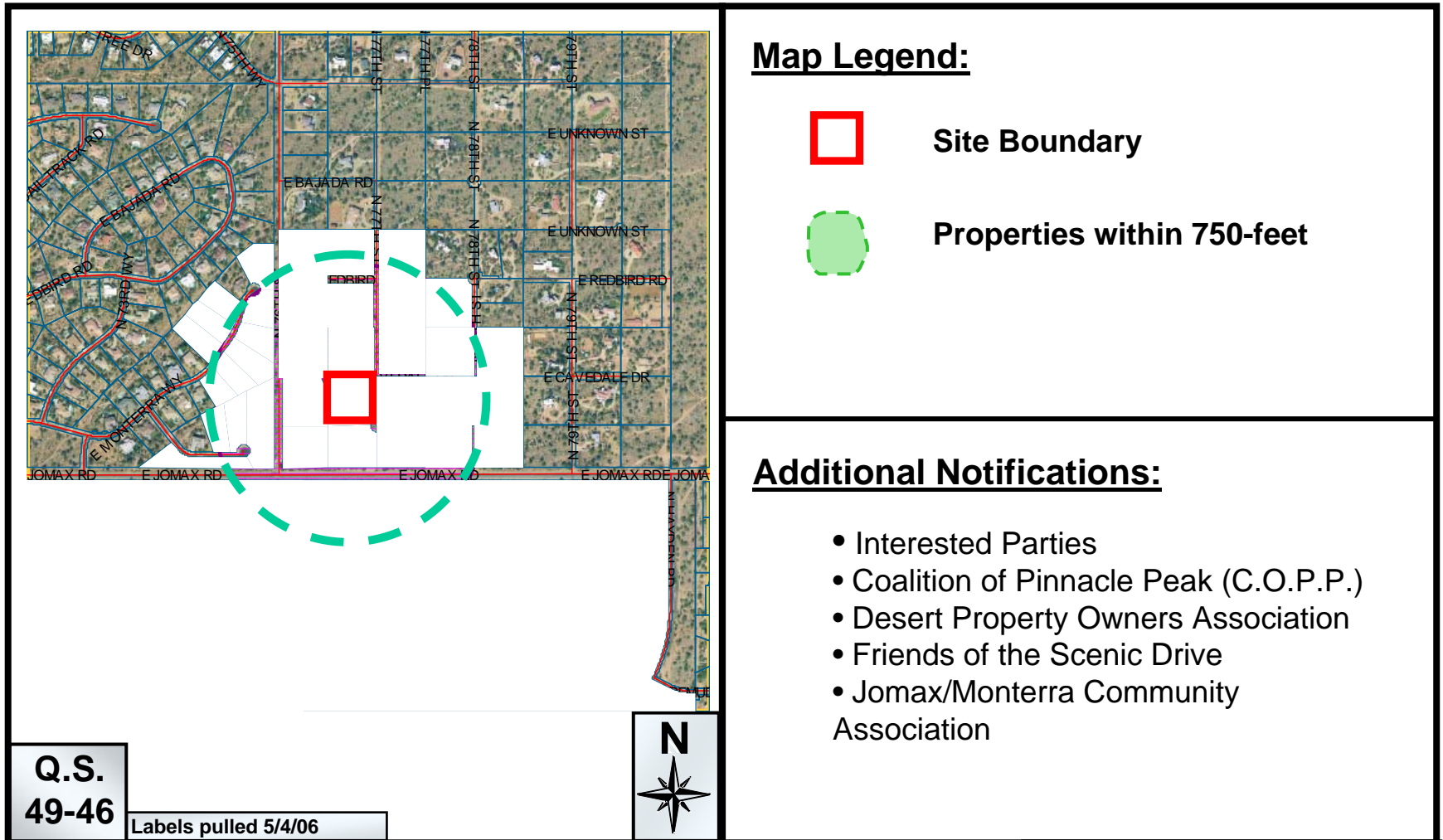
Trails in the Area of 2-AB-2006



 Master Planned Trails	Not to Scale	 N
 Planned McDowell Sonoran Preserve		

May 2006

City Notifications – Mailing List Selection Map



Novak Residence

2-AB-2006

ATTACHMENT #7